

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re Global Brokerage, Inc. f/k/a FXCM, Inc. Securities Litigation
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Master File No. 1:17-cv-00916-RA

This Document Relates To: All Actions
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**DECLARATION OF ISRAEL DAHAN IN SUPPORT OF DEFENDANTS’  
MOTION FOR SUMMARY JUDGMENT AND  
RULE 56.1 STATEMENT OF UNDISPUTED MATERIAL FACTS**

ISRAEL DAHAN, hereby declares pursuant to 28 U.S.C. § 1746:

1. I am a partner in the law firm of King & Spalding LLP, attorneys for defendants Global Brokerage, Inc, (f/k/a FXCM Inc.), Dror Niv, and William Ahdout (collectively “Defendants”) in the above-captioned action, and a member in good standing of the bar of this Court. I respectfully submit this Declaration in Support of Defendants’ Defendants’ Motion for Summary Judgment and Rule 56.1 Statement of Material Undisputed Facts.

2. Attached as Exhibit 1 is an SEC certified copy of FXCM’s Form 10-K for the fiscal year ended December 31, 2011, filed March 15, 2012.

3. Attached as Exhibit 2 is a copy of Expert Report of Simon Wilson-Taylor dated April 21, 2021.

4. Attached as Exhibit 3 is a copy of Research Analyst Presentation dated August 17, 2010 produced at Bates numbers GLBR\_00103494–552.

5. Attached as Exhibit 4 is an excerpted copy of the deposition transcript for the deposition of John Dittami, taken by Plaintiffs on January 21, 2021.

6. Attached as Exhibit 5 is an excerpted copy of the deposition transcript for the deposition of Simon Wilson-Taylor, taken by Plaintiffs on June 2, 2021.

7. Attached as Exhibit 6 is an excerpted copy of the deposition transcript for the deposition of Dror Niv, taken by Plaintiffs on February 11, 2021.

8. Attached as Exhibit 7 is an SEC certified copy of FXCM's Form 10-K for the fiscal year ended December 31, 2012, filed March 18, 2013.

9. Attached as Exhibit 8 is an SEC certified copy of FXCM's Form 10-K for the fiscal year ended December 31, 2013, filed March 17, 2014.

10. Attached as Exhibit 9 is an SEC certified copy of FXCM's Form 10-K for the fiscal year ended December 31, 2014, filed March 16, 2015.

11. Attached as Exhibit 10 is an SEC certified copy of FXCM's Form 10-K for the fiscal year ended December 31, 2015, filed March 11, 2016.

12. Attached as Exhibit 11 is an SEC certified copy of FXCM's Form 10-K for the fiscal year ended December 31, 2016, filed March 20, 2017.

13. Attached as Exhibit 12 is an excerpted copy of the deposition transcript for the deposition of Robert Lande, taken by Plaintiffs on January 14, 2021.

14. Attached as Exhibit 13 is a copy of FXCM's website page entitled "No Dealing Desk" and dated January 27, 2013, introduced as Exhibit 29 to Dror Niv's Deposition.

15. Attached as Exhibit 14 is a copy of "Forex Capital Markets, LLC, External Execution Rules—Business Functionality Description," dated October 7, 2011, produced at Bates numbers GLBR\_00104704–719.

16. Attached as Exhibit 15 is a copy of "FXCM Trading Station II, User Guide to the No Dealing Desk Platform," produced at Bates numbers GLBR\_00127929–989.

17. Attached as Exhibit 16 is an excerpted copy of the deposition transcript for the deposition of Joseph S. Patt, taken by Defendants on April 23, 2020.

18. Attached as Exhibit 17 is an SEC certified copy of FXCM's Form 10-K for the fiscal year ended December 31, 2010, filed March 31, 2011.

19. Attached as Exhibit 18 is a copy of Plaintiffs' Responses and Objections to Defendants' First Set of Requests for Admission, dated February 18, 2021.

20. Attached as Exhibit 19 is a copy of the Employment Agreement of John Dittami, dated September 4, 2009 produced at Bates numbers GLBR\_00152954–69.

21. Attached as Exhibit 20 is a copy of notes from a FXCM board meeting dated October 26, 2009, produced at Bates numbers GLBR\_00003762–63.

22. Attached as Exhibit 21 is an excerpted copy of the deposition transcript for the deposition of Dror Niv, taken by the Commodity Futures Trading Commission on May 25, 2016.

23. Attached as Exhibit 22 is an excerpted copy of the deposition transcript for the deposition of Evan Milazzo, taken by the Commodity Futures Trading Commission on May 13, 2016.

24. Attached as Exhibit 23 is a copy of the Affidavit of John Dittami, dated June 1, 2017 and introduced as Exhibit 71 to the deposition of John Dittami taken on January 21, 2021.

25. Attached as Exhibit 24 is an excerpted copy of the deposition transcript for the deposition of John Dittami, taken by the Commodity Futures Trading Commission on April 7, 2016.

26. Attached as Exhibit 25 is a copy of an e-mail exchange with the subject "RE: A very important question for you," dated November 4, 2009, produced at Bates numbers GLBR\_00008138–39.

27. Attached as Exhibit 26 is a copy of an e-mail exchange with the subject “Re: Successful Trading Today,” dated March 19, 2010, produced at Bates numbers GLBR\_00152843–44.

28. Attached as Exhibit 27 is a copy of a Termination Agreement, dated April 14, 2010, produced at Bates numbers GLBR\_00110713–14.

29. Attached as Exhibit 28 is a copy of the Certificate of Formation of Effex Capital, LLC, dated March 23, 2010, produced at Bates numbers GLBR\_00153005–06.

30. Attached as Exhibit 29 is a copy of a Secured Promissory Note, dated April 8, 2010, produced at Bates numbers E Capital-000026–32.

31. Attached as Exhibit 30 is a copy of a Sole Recourse Guaranty and Pledge Agreement dated April 8, 2010, produced at Bates numbers E Capital-000034–47.

32. Attached as Exhibit 31 is an excerpted copy of the deposition transcript for the deposition of William Ahdout, taken by Plaintiffs on February 16, 2021.

33. Attached as Exhibit 32 is a copy of an e-mail exchange with the subject “RE: Loan,” dated May 17, 2010, produced at Bates number GLBR\_00218045.

34. Attached as Exhibit 33 is a copy of an e-mail exchange with the subject “Loan Documents,” dated April 24, 2010, produced at Bates number GLBR\_00218044.

35. Attached as Exhibit 34 is a copy of the Services Agreement, dated March 1, 2010, produced at Bates numbers GLBR\_00110664–71.

36. Attached as Exhibit 35 is an excerpted copy of the deposition transcript for the deposition of William Ahdout, taken by the Commodity Futures Trading Commission on May 19, 2016.

37. Attached as Exhibit 36 is an excerpted copy of the deposition transcript for the deposition of Alex Dick, taken by Plaintiffs on November 18, 2020.

38. Attached as Exhibit 37 is a copy of a document titled Option Agreement, dated April 14, 2010, produced at Bates numbers GLBR\_00189350–51.

39. Attached as Exhibit 38 is a copy of the Acknowledgement and Confirmation, dated November 20, 2015, produced at Bates numbers GLBR\_00189371–74.

40. Attached as Exhibit 39 is a copy of the “Termination of Services Agreement dated as of May 1, 2010,” dated August 25, 2014, produced at Bates number GLBR\_00110715.

41. Attached as Exhibit 40 is a copy of an e-mail exchange and attachments with the subject “FW: FXCM,” dated October 25, 2010, produced at Bates numbers GLBR\_00218134–65.

42. Attached as Exhibit 41 is a copy of the Services Agreement, dated May 1, 2010, produced at Bates numbers E Capital-0000052–59.

43. Attached as Exhibit 42 is a copy of an e-mail exchange and attachment with the subject “Please pay,” dated December 22, 2010, produced at Bates numbers GLBR\_00184113–14.

44. Attached as Exhibit 43 is a copy of an e-mail exchange with the subject “EFFEX – Rev and Receivable WP,” dated February 17, 2011, produced at Bates numbers GLBR\_00184140–41.

45. Attached as Exhibit 44 is an excerpted copy of the deposition transcript for the deposition of Joshua Rosenfeld, taken by Plaintiffs on December 9, 2020.

46. Attached as Exhibit 45 is a compilation of copies of all produced invoices from FXCM to Effex from May 2010 to July 2014, produced at various Bates numbers.

47. Attached as Exhibit 46 is a copy of the Amendment to Services Agreement, dated September 1, 2011, introduced as exhibit 35 to the deposition of John Dittami, produced at Bates number E Capital-00060.

48. Attached as Exhibit 47 is a copy of an EY audit workpaper of an Effex invoice, produced at Bates numbers EY-GBI-WP-00002178–80.

49. Attached as Exhibit 48 is a copy of an EY audit workpaper of Effex journal entries, produced at Bates numbers EY-GBI-WP-00000149–50.

50. Attached as Exhibit 49 is a copy of an EY audit workpaper of an Effex Invoice, produced at Bates numbers EY-GBI-WP-00001808–10.

51. Attached as Exhibit 50 is a copy of an EY audit workpaper of the Termination of the Services Agreement, produced at Bates number EY-GBI-WP-00002905.

52. Attached as Exhibit 51 is a copy of an EY audit workpaper of the Amendment to Services Agreement, produced at Bates number EY-GBI-WP-00000151.

53. Attached as Exhibit 52 an excerpted copy of the deposition transcript for the deposition of Evan Milazzo in his capacity as a corporate representative for FXCM, taken by Plaintiffs on December 1, 2020.

54. Attached as Exhibit 53 is an SEC certified copy of FXCM's Form 10-Q for the period ending on September 30, 2014, filed November 7, 2014

55. Attached as Exhibit 54 is a copy of an e-mail exchange with the subject "RE: PFOF," dated August 14, 2014, produced at Bates numbers GLBR\_00062622–24.

56. Attached as Exhibit 55 is an excerpted copy of The Charles Schwab Corporation Form 10-K for the fiscal year ended December 31, 2013.

57. Attached as Exhibit 56 is an excerpted copy of Interactive Brokers Group, Inc. Form 10-K for the fiscal year ended December 31, 2013.

58. Attached as Exhibit 57 is a copy of an e-mail exchange with the subject “RE: Payments for Order Flow,” dated November 25, 2013, produced at Bates number GLBR\_00120647.

59. Attached as Exhibit 58 is a copy of an e-mail exchange with the subject “Re: Slippage on limits,” dated April 22, 2010, produced at Bates number GLBR\_00003804.

60. Attached as Exhibit 59 is an excerpted copy of the deposition transcript for the deposition of Evan Milazzo taken by Plaintiffs on December 2, 2020.

61. Attached as Exhibit 60 is a copy of FXCM’s “Quality of Execution Study FAQ,” introduced as Exhibit 6 to the deposition of Robert Lande taken on January 14, 2021.

62. Attached as Exhibit 61 is a copy of an e-mail exchange with the subject “RE: EUR/USD,” dated June 21, 2013, produced at Bates numbers GLBR\_00185323–24.

63. Attached as Exhibit 62 is a copy of an e-mail exchange and attachments with the subject “FW: FXCM’s submission to NFA – Follow up,” dated February 13, 2015, produced at Bates numbers GLBR\_00041747–57.

64. Attached as Exhibit 63 is a copy of the Expert Report of Thomas Linsmeier, Ph.D., dated June 10, 2010.

65. Attached as Exhibit 64 is a copy of “Swiss Franc Soars, Stocks Tank as Euro Peg Scrapped,” CNBC, dated January 15, 2015, *available at* <https://www.cnbc.com/2015/01/15/swiss-franc-sours-stocks-tank-as-euro-peg-scrapped.html>.

66. Attached as Exhibit 65 is an excerpted copy of the deposition transcript for the deposition of David Stollow, taken by Plaintiffs on January 25, 2021.

67. Attached as Exhibit 66 is a copy of a memorandum titled “FXCM Inc.’s settlements with US regulators,” dated March 1, 2017, produced at Bates number EY-GBI-WP-00004260–71.

68. Attached as Exhibit 67 is a SEC certified copy of FXCM’s Form 8-K dated February 2, 2017 and filed on February 7, 2017.

69. Attached as Exhibit 68 is a copy of a memorandum titled “Evaluation of Regulatory Matters & Impact on 2016 Financial Statements,” dated March 14, 2017, produced at Bates numbers EY-GBI-WP-00004035–41.

70. Attached as Exhibit 69 is a copy of “Swiss franc jumps 30 percent after Swiss National Bank dumps euro ceiling,” Reuters, dated January 15, 2015, *available at* <https://www.reuters.com/article/us-markets-franc/swiss-franc-jumps-30-percent-after-swiss-national-bankdumps-euro-ceiling-idUSKBN0KO16Y20150115>.

71. Attached as Exhibit 70 is a copy of “Swiss Franc Shocks Some FX Brokers; Regulators move in,” Reuters, dated January 16, 2016, *available at* <https://www.reuters.com/article/cbusiness-us-swiss-snb-brokers-idCAKBN0KP1EH20150116>.

72. Attached as Exhibit 71 is a copy of “FXCM -Stock Price History,” Macrotrends, September 8, 2021, *available at* <https://www.macrotrends.net/stocks/charts/GLBR/fxcm/stock-price-history>.

73. Attached as Exhibit 72 is a copy of the Expert Report of Terrence Hendershott, Ph.D., dated June 10, 2021.

74. Attached as Exhibit 73 is a copy of the Expert Report of Terrence Hendershott, Ph.D., dated June 12, 2020.

75. Attached as Exhibit 74 is a SEC certified copy of FXCM’s Form 8-K, dated January 19, 2015 and filed January 20, 2015.



76. Attached as Exhibit 75 is a copy of the National Futures Associate Decision dated February 6, 2017.

77. Attached as Exhibit 76 is a copy of “Leucadia National Corporation: FXCM Negative Developments But Likely a Relatively Small Financial Impact on LUK,” Oppenheimer, dated February 7, 2017.

78. Attached as Exhibit 77 is a copy of “FXCM Settles with Regulators, Plans to Exit U.S. Business,” Cowen and Company, dated February 7, 2017.

79. Attached as Exhibit 78 is an excerpted copy of the deposition transcript for the deposition of Adam Werner, taken by Defendants on June 4, 2021.

80. Attached as Exhibit 79 is a copy of Plaintiffs’ Second Amended Responses and Objections to Defendants’ Interrogatories 1-6, dated February 18, 2021.

Dated: New York, New York  
September 9, 2021

/s/ Israel Dahan  
Israel Dahan